

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Joint Application of Southern California Edison Company (U 338 E) and Pacific Terminals LLC for Southern California Edison Company to Sell Fuel Oil Pipeline Facilities to Pacific Terminals LLC and for Pacific Terminals LLC to Purchase Such Fuel Oil Pipeline Facilities and to Operate Them as a Public Utility.

Application 02-03-035

**ADMINISTRATIVE LAW JUDGE'S RULING REQUESTING
BRIEFING ON COMMISSION JURISDICTION UNDER
PUBLIC UTILITIES CODE SECTION 377**

Summary

The California Public Utilities Commission (Commission) requests that joint applicants Southern California Edison Company (Edison) and Pacific Terminals LLC (Pacific Terminals) submit a brief in support of the position that the California Public Utilities Commission (Commission) has jurisdiction to proceed on the application in light of California Public Utilities Code (Pub. Util. Code) Section 377. A briefing schedule is set forth below.

Background

On March 22, 2002, Edison and Pacific Terminals filed a joint application with the Commission, pursuant to Sections 851 and 854 of the Pub. Util. Code,¹

¹ Unless otherwise noted, all code references are to the Cal. Pub. Util. Code.

seeking authorization for Edison to sell and transfer its Fuel Oil Pipeline (FOP) Facilities to Pacific Terminals, and for Pacific Terminals to purchase such FOP facilities and to operate them as a public utility. The sale process is set forth in the application.

Edison is an investor-owned public utility engaged in the business of generating, transmitting, and distributing electric energy in portions of central and southern California. Edison desires to sell its FOP facilities that consist of 1) the Edison Pipeline and Terminal Company (EPTC), assets used for Edison's commercial oil storage and transport operations for third parties, and 2) the station facilities, assets developed for on-site storage and supplying of fuel oil for the generating stations.

In Decision (D.) 94-10-044, the Commission authorized Edison to make its fuel oil storage and pipeline system available to third parties in a manner that did not impair Edison's ability to provide backup fuel capability that was then required in support of electric utility generation.

Pub. Util. Code Section 377

Pub. Util. Code Section 377, enacted in 2001 to implement Assemble Bill 6X, states in pertinent part:

“Notwithstanding any other provision of law, no facility for the generation of electricity owned by a public utility may be disposed of prior to January 1, 2006. The commission shall ensure that public utility generation assets remain dedicated to service for the benefit of California ratepayers.”

Briefing

The Commission requests that Edison and/or Pacific Terminals² submit points and authorities in support of its position that Pub. Util. Code Section 377 does not divest the Commission of jurisdiction to proceed with the instant application until 2006.

Schedule

Applicants' briefs are due July 8, 2002. Responsive pleadings are not required. However, if any parties wish to file responsive pleadings, pleadings are limited to ten pages and are due July 22, 2002. If any responsive pleadings are filed, reply briefs, limited to seven pages, will be allowed and are due August 2, 2002.

Procedural Schedule and Other Rulings

The assigned administrative law judge (ALJ) previously issued a ruling on May 17, 2002, advising the joint applicants to file a revised Proponents Environmental Assessment (PEA), and the ALJ and assigned Commissioner issued a scoping memorandum on May 28, 2002, establishing the scope and schedule for the proceeding. Testimony from the applicants is due June 21, 2002. This ruling requesting briefing will not change the adopted procedural schedule.

² Applicants may file a joint brief or separate briefs.

IT IS RULED that Applicants, Southern California Edison Company and Pacific Terminals LLC are directed to submit a brief in support of the position that the Commission has jurisdiction to proceed on this application in light of Public Utilities Code § 377.

Dated June 14, 2002, at San Francisco, California.

/s/ Carol Brown
Carol Brown
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Requesting Briefing on Commission Jurisdiction Under Pub. Util. Code Section 377 all parties of record in this proceeding or their attorneys of record.

Dated June 14, 2002, at San Francisco, California.

/s/ Antonina V. Swansen
Antonina V. Swansen

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.